

Application No. 09/641,820
Attorney Docket No. 1017-5616 (51017-5616)

Remarks:

Pending in the application at the time of the outstanding Restriction Requirement were claims 1-6, 8-18, 20-23 and 51-82. Claims 1, 8 and 20 have been amended in accordance with the Examiner's comments regarding antecedent bases. Claims 52 and 73 have been amended into independent form in view of the restriction. No new matter has been added.

The outstanding Restriction Requirement requested election of one of the two invention groups (listed below) that the Office deemed to be separate and distinct inventions:

- I. Claims 51 and 72-77, drawn to invention 1, classified in class 705, subclass 5; and
- II. Claims 1-6, 8-18 and 20-23, 52-71 and 78-82, drawn to invention 2, classified in class 705, subclass 5. (See Restriction Requirement, page 2).

The Restriction Requirement further states that "invention 1 is directed toward the automation of generically renting vehicles, [and] invention 2 is directed toward renting vehicles and coordinating with a repair facility". On this basis and in view of how the claims were divided by the Restriction Requirement between the two groups, Applicant reads the restriction such that claims with a "repair facility" limitation belong in group II while the claims without a "repair facility" limitation belong in group I.

Applicant hereby elects the claims of Group II for further prosecution in this application. However, Applicant traverses this Restriction in that Applicant respectfully submits that claims 53-55 should be placed in Group I (because there is no "repair facility" limitation in these claims) and claims 73-77 should be placed in Group II (because these claims do include "repair facility" limitations). Therefore, Applicant respectfully requests that the Restriction be modified such that Group II includes the claims 1-6, 8-18, 20-23, 52, 56-71 and 73-82 while Group I includes the claims 51, 53-55, and 72.

Also, Applicant notes that under MPEP 803, restriction is only proper "when there would be a serious burden on the Examiner if restriction is not required." Furthermore, under MPEP 808, a Restriction Requirement must explain "the reasons why there would be a serious burden on the examiner if restriction is not required." (See also MPEP 808.02). Under MPEP 808.02:

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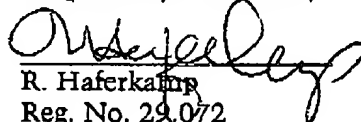
Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, *no reasons exist for dividing among independent or related inventions.* (emphasis added).

On this subject, Applicant notes that both invention groups are classified in the *same* class/subclass (705/5). Furthermore, there is no indication from the Restriction Requirement that the fields of search for the two groups are different, nor is there a clear indication of separate future classification and field of search, and at this advanced stage in the prosecution of this application all that is required is an update of previous searching which should not in any event present a "serious burden" on the Office. Moreover, on this subject, Applicant notes that, as restricted, claim 51 has been classified in Group I while claim 52 has been classified in Group II such that any search and examination conducted for claim 52 will necessarily be applicable to claim 51 given claim 52's dependency. As such, Applicant traverses the Restriction Requirement for failure to establish that a serious burden would exist if restriction is not required and respectfully requests that the Restriction Requirement be withdrawn.

In this election, Applicant has (1) elected the claims classified in Group II (including claims 73-77) and (2) withdrawn the claims classified in Group I (including claims 53-55). In doing so, Applicant has amended any Group II claims that are dependent from Group I claims into independent form. (See claims 52 and 73). In the event that the Restriction Requirement is withdrawn because of the traversal, Applicant respectfully requests the Office to reinstate the withdrawn claims and provide a full examination on their merits of all presently pending claims. In the event that the Restriction Requirement is upheld, Applicant reserves the right to file a divisional application to pursue the withdrawn claims of Group I as well as any additional claims as Applicant shall deem desirable to provide comprehensive patent coverage for this invention.

A speedy and favorable action is respectfully requested.

Respectfully submitted,



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